रजिस्ट्री सं० डी० 221 REGISTERED NO. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 42] नई दिल्ली, शुक्रवार जुलाई 14, 1972/आषाढ़ 23, 1894
No. 42] NEW DELHI, FRIDAY, JULY 14, 1972/ASADHA 23, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 14th July, 1972/Asadha 23, 1894 (Saka)

THE INDIAN IRON AND STEEL COMPANY (TAKING OVER OF MANAGEMENT) ORDINANCE, 1972.

NO. 6 OF 1972

Promulgated by the President in the Twenty-third Year of the Republic of India.

An Ordinance to provide for the taking over of the management of the undertaking of the Indian Iron and Steel Company Limited for a limited period in the public interest and in order to secure the proper management of the undertaking.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (*1*) This Ordinance may be called the Indian Iron and Steel Company (Taking Over of Management) Ordinance, 1972. Short title and commencement.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Ordinance comes into force;

(b) "company" or "Indian Iron and Steel Company" means the Indian Iron and Steel Company Limited, being a company as defined in the Companies Act, 1956, having its registered office at Martin Burn House, 12 Mission Row, Calcutta; 1 of 1956

(c) "Custodian" means the person appointed under section 4 to take over the management of the undertaking of the company;

(d) "undertaking", in relation to the company, means the property and assets of the company referred to in sub-section (2) of section 3;

(e) words and expressions used but not defined in this Ordinance and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act. 1 of 1956

CHAPTER II

MANAGEMENT OF THE UNDERTAKING OF THE INDIAN IRON AND STEEL COMPANY

Management of undertaking of the company to vest in Central Government.

3. (1) On and from the appointed day and for a period of two years thereafter, the management of the undertaking of the company shall vest in the Central Government.

(2) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, ropeways, stores, instruments, machinery, aircraft, locomotives, automobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the company in relation to its undertaking and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(4) All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel of the company immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.

Custodian of the company.

4. (1) The Central Government shall, as from the appointed day, appoint a person as the Custodian of the undertaking of the company for the purpose of taking over the management thereof and the Custodian shall carry on the management of the undertaking of the company for and on behalf of the Central Government.

(2) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to his powers and duties as the Central Government deems desirable and the Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.

(3) Subject to the other provisions of this Ordinance and to the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers of the Board of Directors of the company (including the powers to dispose of any properties or assets of the company) whether such powers are derived from the Companies Act, 1956, or from the memorandum and articles of association of the company or from any other source.

1 of 1956.

(4) Every person having possession, custody or control of any property forming part of the undertaking of the company shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the company as may be authorised by the Central Government in this behalf.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the undertaking of the company, including the minutes books containing the resolutions of the persons in charge of the management before the appointed day, the current cheque books relating to the undertaking of the company, any letters, memoranda, notes or other communications between him and the company shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to the Custodian or to any such person (being an officer or other employee of the Central Government or the company) as may be authorised by the Central Government in this behalf.

(6) Every person in charge of the management of the undertaking of the company immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking of the company immediately before the appointed day and of all the liabilities and obligations of the company in relation to its undertaking subsisting immediately before that day and also of all agreements entered into by the company in relation to its undertaking and in force immediately before that day.

(7) The Custodian shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

No right to compensation for termination of contract or office.

5. Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-setion (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office.

Relinquishment of management of the undertaking of the company.

6. (*a*) Notwithstanding anything contained in sub-section (*1*) of section 3, if, at any time before the expiry of the period of two years referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the undertaking of the company in that Government have been fulfilled or for any other reason it is not necessary that the management of the undertaking of the company should remain vested in that Government, it may by order published in the Official Gazette relinquish the management of the undertaking of the company with effect from such date as may be specified in the order.

(*2*) On and from the date specified in the order published under sub-section (*1*), the undertaking of the company shall be managed in accordance with the provisions of the Companies Act, 1956, so, however, that steps, if any, in relation to the management of the undertaking may be taken after the publication of the order under sub-section (*1*). 1 of 1956.

Application of Act 1 of 1956.

7. (*1*) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of the company, but subject to the provisions of sub-section (*2*) of section 6, so long as the management of the undertaking of the company remains vested in the Central Government,—

(*a*) it shall not be lawful for the shareholders of the company or any other person to nominate or appoint any person to be a director of the company;

(*b*) no resolution passed at any meeting of the shareholders of the company on or after the appointed day shall be given effect to unless approved by the Central Government;

(*c*) no proceeding for the winding up of the company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(*2*) Subject to the provisions contained in sub-section (*1*), and to the other provisions contained in this Ordinance and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to the company in the same manner as it applied thereto before the appointed day. 1 of 1956.

CHAPTER III

MISCELLANEOUS

Penalties.

8. (*1*) Any person, who—

(*a*) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Custodian or any person authorised under this Ordinance, or

(*b*) wrongfully obtains possession of any such property, or

(*c*) wilfully retains any property forming part of the undertaking of the company or removes or destroys it, or

(*d*) wilfully withholds or fails to deliver any books, papers or other documents which may be in his possession or under his control to the Custodian or any person authorised under this Ordinance, or

(*e*) fails, without any reasonable cause to furnish information of particulars as provided in sub-section (6) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by the Central Government in this behalf.

Offences by companies.

9. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Exclusion of period of operation of Ordinance.

10. In computing the period of limitation prescribed by law for the time being in force for any suit or application against any person by the company in respect of any matter arising out of any transaction in relation to the undertaking of the company, the time during which this Ordinance is in force shall be excluded.

Ordinance to have overriding effect.

11. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court.

Protection of action taken in good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Custodian or any officer or other employee of the Central Government or the company for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or the Custodian or any of the officers or other employees of the Central Government or the company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Contracts in bad faith may be cancelled or varied.

13. (1) If the Central Government is satisfied, after such enquiry as it may think fit, that any contract or agreement entered into at any time within three years immediately preceding the appointed day, between the company or the managing agents of the company and any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith, and is detrimental to the interests of the undertaking of the company. it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Calcutta for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Power to terminate contract of employment.

14. If the Custodian is of the opinion that any contract of employment entered into by the company or the managing agents of the company in relation to the undertaking of the company, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to make rules.

15. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

V. V. GIRI,
President.

K. K. SUNDARAM,
Joint Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1972